

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) DECKARD JAY MELOTT, an individual,)	
)	
Plaintiff,)	
)	
v.)	Case No. 18-cv-351-GKF-FHM
)	
(1) ALPHA LYNELLE ANDREWS, an individual;)	
(2) TRAVELERS, a Licensed Oklahoma Insurance)	
Company; and)	
(3) THE STANDARE FIRE INSURANCE CO.,)	
a Licensed Oklahoma Insurance Company,)	
)	
Defendants.)	

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, 12 O.S. § 2004(I) and *Thibault v. Garcia*, 398 P.3d 331 (Okla. Civ. App. 2017), Defendants Travelers (“Travelers”) and The Standard Fire Insurance Co. (“SFIC”), file this Notice of Removal of this case from the District Court of Tulsa County, Oklahoma. In support of removal, Defendants Travelers and SFIC state the following:

1. On December 21, 2017, Plaintiff Deckard Jay Melott (“Plaintiff”) filed a Petition in the District Court of Tulsa County, Oklahoma, captioned *Deckard Jay Melott, an individual v. Alpha Lynelle Andrews, an individual*, Case No. CJ-2017-5058 (“State Court Action”). See Petition, Ex. 1.

2. On May 21, 2018, Plaintiff filed an Amended Petition in the State Court Action captioned *Deckard Jay Melott, an individual v. Alpha Lynelle Andrews, an individual, and Travelers The Standard Fire Insurance Co., a Licensed Oklahoma Insurance Company*. See Amended Petition, Ex. 2.

3. On June 13, 2018, Plaintiff filed another Amended Petition in the State Court Action captioned *Deckard Jay Melott, an individual v. Alpha Lynelle Andrews, Travelers, a*

Licensed Oklahoma Insurance Company, and The Standard Fire Insurance Co., a Licensed Oklahoma Insurance Company. See Plaintiff's Amended Petition (hereinafter "Second Amended Petition"), Ex. 3.

2. On June 19, 2018, Defendants Travelers and SFIC were served with the Summons and the Second Amended Petition in the State Court Action by certified mail via the Oklahoma Insurance Commissioner, as designated agent for foreign insurance companies doing business in the State of Oklahoma. *See* CSC Notice of Service of Process and Summons, Ex. 4.

3. Defendants Travelers and SFIC are filing this Notice of Removal within thirty (30) days after receipt of Plaintiff's Second Amended Petition. Thus, under 28 U.S.C. § 1446(b), Defendants Travelers and SFIC's time to remove has not yet expired.

4. Plaintiff is a resident of the State of Oklahoma. On May 20, 2018, Plaintiff's claims against Defendant Alpha Lynelle Andrews were deemed dismissed as a matter of law pursuant to 12 O.S. § 2004(I) ("If service of process is not made upon a defendant within one hundred eighty (180) days after the filing of the petition and the plaintiff has not shown good cause why such service was not made within that period, the action shall be deemed dismissed as to that defendant without prejudice") and *Thibault v. Garcia*, 398 P.3d 331 (Okla. Civ. App. 2017) ("a petition not served within 180 days of filing is deemed dismissed on the 181st day"). Defendants Travelers and SFIC, the only remaining defendants in this lawsuit, are Connecticut corporations with their principal places of business in Hartford, Connecticut. Therefore, complete diversity exists between the parties to this case.

5. In addition to complete diversity existing, the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, establishing this case is properly removed pursuant to 28 U.S.C. §§ 1332, 1441 and 1446. Specifically, Plaintiff asserts in his

Second Amended Petition his damages are “in excess of the amount required for diversity jurisdiction pursuant to Section 1332 to Title 28 of the United States Code”. *See* Second Amended Petition, Ex. 3, ¶ 35.

6. The United States District Court for the Northern District of Oklahoma is the appropriate court for filing a Notice of Removal from the State Court where Plaintiff’s State Court Action is pending, and accordingly, Defendants Travelers and SFIC seek to remove the State Court Action to this Court.

7. Upon receiving the federally-filed Notice of Removal, Defendants Travelers and SFIC will file a copy of the Notice of Removal with the State Court, and will provide written notice to all counsel, all in accordance with 28 U.S.C. § 1446(d).

8. Pursuant to 28 U.S.C. § 1446 and LCvR 81.2, a copy of the docket sheet and a copy of all documents filed and/or served in the District Court of Tulsa County, Case No. CJ-2017-5058 are attached hereto. See Docket Sheet, Ex. 5; Petition, Ex. 1; Amended Petition, Ex. 2, Second Amended Petition, Ex. 3; Return of Service (SFIC), Ex. 6.

9. Under the provisions of 28 U.S.C. §§ 1441(a) and (b), and all other applicable statutes, all of which Defendants Travelers and SFIC have complied with, this cause of action is removable to the United States District Court for the Northern District of Oklahoma.

Respectfully submitted,

s/Melanie K. Christians

Derrick T. DeWitt, OBA #18044

Melanie K. Christians, OBA #30846

DeWITT PARUOLO MEEK, PLLC

P.O. Box 138800

Oklahoma City, OK 73113

Telephone: (405) 705-3600

Facsimile: (405) 705-2573

dewitt@46legal.com

mchristians@46legal.com

Attorneys for Defendants

Travelers and The Standard Fire Insurance Co.

CERTIFICATE OF SERVICE

This is to certify that on the 9th day of July, 2018, the above document was electronically transmitted to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Robert L. Rode, OBA #14307

Dave C. Bean, OBA #12556

THE RODE LAW FIRM

601 S. Boulder, Suite 1100

Tulsa, OK 74119

Telephone: (918) 599-8880

Facsimile: (919) 599-8863

Attorneys for Plaintiff

s/Melanie K. Christians